

## **FACT SHEET (06ZQ) PREPARED FOR SING CHIA**

**DATE:** 9/22/2010

**TOPIC:** Current Enforcement Activities At The San Jacinto River Waste Pits Site

### **BACKGROUND**

The Unilateral Administrative Order, dtd 11/20/2009, (UAO) describes the site as being Harris County in the State of Texas. The Site itself has no specific street address. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge. The Site is located in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River, east of the City of Houston between two unincorporated areas known as Channelview and Highlands.

The Site includes an abandoned 20-acre tract of land ("Tract") consisting of three waste ponds containing hazardous substances partially submerged in the San Jacinto River as well as wherever those hazardous substances have been deposited, placed, or otherwise come to be located. The Tract is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel.

A recorded warranty deed documents that, effective 8/3/1965 Virgil C. McGinnes Trustee, became to Tract's owner of record. Currently Virgil C. McGinnes Trustee remains the Tract's owner of record. Virgil McGinnes is deceased, but was the officer, director, and major shareholder of McGinnes Industrial Maintenance Corporation ("MIMC") during the time hazardous substances were disposed at the Site.

MIMC was formed on 9/3/1965. Ten days later, MIMC acquired the assignment of an exclusive waste disposal contract to dispose of waste from the Champion Papers, Inc ("Champion") paper mill in Pasadena, Texas., MIMC removed waste materials from the Champion plant, transported the paper waste materials by MIMC barges, and unloaded the waste into ponds surrounded by levees at the Tract from 9/13/1965 through 5/6/1966.

NOTE - Nowhere in the UAO's Site description is any reference to impoundments, i.e., waste ponds, on land located south side of I-10.

### **CURRENT STATUS**

Currently the potentially responsible parties are MIMC and International Paper Company (IPC). Both PRPs are jointly conducting a Time Critical Removal Action (TCRA) under an EPA Administrative Order on Consent (5/17/2010) and a Remedial Investigation/Feasibility Study (RI/FS) under an EPA Unilateral Administrative Order (11/20/2009). However, see dated activities under below heading of **"CURRENT COMMUNICATIONS AND ENFORCEMENT ACTIVITIES."**

Due to the unique location of the Site within an area subject to frequent dredging, a specific permits evaluation process (since 11/1/2009) in an area around the Site was implemented by the EPA, U.S. Army Corps of Engineers, and State of Texas, as part of an overall watershed management solution.

RPM plans to look into dioxin fingerprinting as a third line of evidence for the Site in order to identify existing dioxin as paper mill related dioxin (the other lines of evidence are: fate & transport modeling and dioxin TEQ levels).

Currently the Enforcement Officer is confirming the existence and locations of all former and existing paper mills, as well as locations of their outfalls, in the area of the Houston Ship Channel / Galveston Bay watershed.

Site team is working with the following agencies and local governments on the cleanup process for this Site:

- Federal and State Natural Resource Trustees: National Oceanic and Atmospheric Administration, U.S. Fish & Wildlife Service, Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Texas General Land Office.
- Coordination Partners: U.S. Army Corps of Engineers, Agency for Toxic Substances and Disease Registry, Texas Department of State Health Services, Texas Department of Transportation, Harris County, Port of Houston Authority, Houston-Galveston Area Council

## **CURRENT COMMUNICATIONS AND ENFORCEMENT ACTIVITIES**

**8/26/2010 -** Via email RPM requested PRPs to revised the RI/FS Work Plan, § 6.1.8 Soil Investigation to reflect “that USEPA has information that indicates an additional impoundment is located south of I-10. This information indicates the additional impoundment contains material similar to that disposed of in the two impoundments located north of I-10. Surface and subsurface soil samples will be taken in and around these impoundments to determine the nature and extent of any actual or threatened releases.”

**9/10/2010 -** Site RPM/attorney received notification from MIMC that it denies any responsibility for the additional impoundment south of I-10 and contends that the area south of I-10 where the impoundment may be located is a separate “facility” or “Site” under CERCLA. In summary, this letter documents that MIMC declines to participate in the sampling activity south of I-10.

**9/13/2010 –** Site RPM/attorney receive emailed letter notification from IPC that it does not join in the position stated in MIMC’s 9/10/2010 letter that MIMC was not involved in the disposal of waste into or from the impoundments located north of I-10. IPC feels that at this time it is premature to conclude that MIMC has no liability associated with the impoundment south of I-10.

The letter further states that IPC does not regard there to be a credible technical basis for requiring additional sampling with respect to the additional impoundment located south of I-10.

EO’s interprets the IPC letter to mean that, although IPC doesn’t think there is a credible technical basis to warrant sampling of the southern impoundment, IPC has not provided EPA with its documented refusal to participate in the sampling activity south of I-10.

**9/17/2010 –** Site Attorney has prepared separate letter for MIMC and IPC advising both parties that, EPA will consider either party that refuses, or both parties that refuse, to participate in the sampling activity south of I-10 will be in violation of the existing UAO.

**9/23/2010 –** Enforcement officer and Site attorney will meet to review existing evidence in EPA’s possession that implicates MIMC and/or IPC to the impoundment located south of I-10.

## **CONTACTS**

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